

Guido Saveri (22349)
R. Alexander Saveri (173102)
SAVERI & SAVERI, INC.
706 Sansome Street, #200
San Francisco, CA 94111
Telephone: (415) 217-6810
Facsimile: (415) 217-6813
guido@saveri.com
rick@saveri.com

Kimberly A. Justice (*pro hac vice*)
Jonathan M. Jagher (*pro hac vice*)
FREED KANNER LONDON & MILLEN LLC
923 Fayette Street
Conshohocken, PA 19428
Telephone: (610) 234-6487
Facsimile: (224) 632-4521
kjustice@fklmlaw.com
jjagher@fklmlaw.com

Attorneys for Plaintiff Sermons and the Proposed Classes

[Additional counsel appear on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DONALD R. CAMERON, *et al.*,

Plaintiffs,

v.

APPLE INC.,

Defendant.

**STIPULATION AND [PROPOSED]
ORDER GRANTING BARRY
SERMONS' VOLUNTARY DISMISSAL**

The Honorable Yvonne Gonzales Rogers

Case No. 4:19-cv-03074-YGR

1 Plaintiffs in the above-captioned action including Donald R. Cameron, Pure Sweat Basketball,
2 Inc., and Barry Sermons (collectively, “Developer Plaintiffs”) and Defendant Apple Inc. (“Defendant”)
3 (collectively, the “Parties”), by and through their respective counsel, hereby agree as follows:

4 WHEREAS Mr. Sermons filed his complaint against Defendant on June 28, 2019 (Case
5 No. 4:19-cv-03796-YGR);

6 WHEREAS on September 30, 2019, a Consolidated Complaint was filed in *Cameron v. Apple*
7 *Inc.* (Case No. 4:19-cv-03796-YGR) (the “*Cameron Action*”) naming Donald R. Cameron, Pure Sweat
8 Basketball, Inc., and Barry Sermons as plaintiffs representing putative classes of iOS developers [ECF
9 53];

10 WHEREAS Mr. Sermons’ action was formally consolidated with the *Cameron Action* on
11 November 5, 2019 [ECF 72];

12 WHEREAS on November 11, 2019, Defendant answered the Consolidated Complaint [ECF
13 74];

14 WHEREAS Mr. Sermons represents that he no longer wishes to serve as a named plaintiff or
15 take any part in this litigation and therefore wishes to voluntarily dismiss with prejudice all of his
16 claims asserted against Defendant in this litigation;

17 WHEREAS Donald R. Cameron and Pure Sweat Basketball, Inc. represent that they will
18 continue to prosecute this action as named plaintiffs;

19 WHEREAS Mr. Sermons has produced thousands of pages of documents in connection with
20 discovery in this case, which Apple represents to have spent significant resources to review and
21 analyze;

22 WHEREAS Mr. Sermons represents that all of the documents that he has produced in this case
23 (SERMONS0000001-SERMONS0010321) are authentic, true, and accurate copies of documents that
24 were in his custody and control at the time that he produced documents in this case, unaltered except
25 for the addition of Bates numbers and confidentiality labels for use in this litigation;

26 WHEREAS the Parties have determined that it is in their mutual interest to avoid the significant
27 and unnecessary burden and expense associated with document-by-document authentication of
28

1 Mr. Sermons' documents, and that establishing the authenticity of his documents by way of a
2 declaration from Mr. Sermons will promote the orderly and efficient progress of this case;

3 WHEREAS Defendant believes that Mr. Sermons produced documents that are business
4 records under Rule 803(6) of the Federal Rules of Evidence;

5 WHEREAS the Parties have determined that establishing by way of declaration from
6 Mr. Sermons the authenticity of any of his produced documents as business records under Rule 803(6)
7 of the Federal Rules of Evidence is in their mutual interest and will promote the orderly and efficient
8 progress of this case;

9 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED among the Parties, by
10 and through their respective counsel and subject to entry by the Court of an Order providing that:

11 1. Mr. Sermons shall provide to Defendant, within 30 days of entry of this Stipulation by
12 the Court, a declaration stating that all documents that he produced in this case are authentic, true, and
13 accurate copies of documents that were in his custody and control at the time that he produced
14 documents in this case, unaltered except for the addition of Bates numbers and confidentiality labels
15 for use in this litigation.

16 2. Developer Plaintiffs will not contest the authenticity of documents produced by
17 Mr. Sermons that he declares to be authentic, as described in the preceding paragraph.

18 3. Upon request from Defendant, and if Mr. Sermons in consultation with his counsel
19 determines that a document or documents identified by Defendant are business records under
20 Rule 803(6) of the Federal Rules of Evidence ("Business Records"), Mr. Sermons shall provide a
21 declaration stating that (1) the document or documents identified in Defendant's request were made at
22 or near the time of the occurrence of the matters set forth by, or from information transmitted by,
23 someone with knowledge of those matters; (2) that the same document or documents were kept in the
24 course of a regularly conducted activity of a business, organization, occupation, or calling, whether or
25 not for profit; and (3) that the making of such document or documents was a regular practice of that
26 activity. If Mr. Sermons refuses to provide such a declaration for any document, Defendant may depose
27 him on the issues that would have been stated in such a declaration and on his grounds for refusing to
28 provide the declaration. Mr. Sermons, however, expressly reserves and does not waive attorney-client

1 privilege or the protections of the work-product or trial-preparation doctrines, or those of any related
 2 doctrines, and expressly reserves and does not waive the right to decline to answer any questions asked
 3 in any such deposition on the basis of good-faith assertions of attorney-client privilege or the protection
 4 of work-product or trial-preparation or related doctrines.

5 4. For any document which Mr. Sermons declares to be a Business Record, Developer
 6 Plaintiffs will not contest Mr. Sermons' testimony (by written declaration) that the document (1) was
 7 made at or near the time of the occurrence of the matters set forth by, or from information transmitted
 8 by, someone with knowledge of those matters; (2) that the same document was kept in the course of a
 9 regularly conducted activity of a business, organization, occupation, or calling, whether or not for
 10 profit; and (3) that the making of such document was a regular practice of that activity.

11 5. Mr. Sermons' claims in the above-captioned lawsuit shall be and hereby are dismissed
 12 with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), with each side to bear its
 13 own costs, expenses, and attorneys' fees.

14
 15
 16 **IT IS SO STIPULATED**

17 DATED: November 16, 2020

By: /s/ R. Alexander Saveri

Guido Saveri (22349)

R. Alexander Saveri (173102)

SAVERI & SAVERI, INC.

706 Sansome Street, #200

San Francisco, CA 94111

Telephone: (415) 217-6810

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Kimberly A. Justice (*pro hac vice*)

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FREED KANNER LONDON & MILLEN LLC

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Conshohocken, PA 19428

Telephone: (610) 234-6487

Facsimile: (224) 632-4521

kjustice@fklmlaw.com

jjagher@fklmlaw.com

Attorneys for Plaintiff Sermons and the Proposed Classes

DATED: November 16, 2020

By: /s/ Steve Berman

HAGENS BERMAN SOBOL SHAPIRO LLP

STEVE W. BERMAN (*pro hac vice*)

steve@hbsslaw.com

ROBERT F. LOPEZ (*pro hac vice*)

rob@hbsslaw.com

1301 Second Avenue, Suite 2000

Seattle, WA 98101

Telephone: (206) 623-7292

Facsimile: (206)623-0594

SHANA E. SCARLETT (SBN 217895)

shanas@hbsslaw.com

715 Hearst Avenue, Suite 202

Berkeley, CA 94710

Telephone: (510) 725-3000

Facsimile: (510) 725-3001

Interim Class Counsel for the Developer Plaintiffs

DATED: November 16, 2020

By: /s/ Ethan Dettmer

GIBSON, DUNN & CRUTCHER LLP

ETHAN DETTMER, SBN 196046

edettmer@gibsondunn.com

ELI M. LAZARUS, SBN 284082

elazarus@gibsondunn.com

555 Mission Street

San Francisco, CA 94105-0921

Telephone: 415.393.8200

Facsimile: 415.393.8306

GIBSON, DUNN & CRUTCHER LLP

THEODORE J. BOUTROUS JR (SBN 132099)

tboutrous@gibsondunn.com

RICHARD J. DOREN (SBN 124666)

rdoren@gibsondunn.com

DANIEL G. SWANSON (SBN 116556)

dswanson@gibsondunn.com

333 South Grand Avenue

Los Angeles, CA 90071-3197

Telephone: 213.229.7000

Facsimile: 213.229.7520

GIBSON, DUNN & CRUTCHER LLP
CYNTHIA E. RICHMAN (D.C. Bar No. 492089;
appearance *pro hac vice*)
crichman@gibsondunn.com
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Telephone: 202.955.8234
Facsimile: 202.530.9691

GIBSON, DUNN & CRUTCHER LLP
VERONICA S. LEWIS (Texas Bar No. 24000092;
appearance *pro hac vice*)
vlewis@gibsondunn.com
2100 McKinney Avenue, Suite 1100
Dallas, TX 75201
Telephone: 214.698.3100
Facsimile: 214.571.2900

Attorneys for Defendant Apple Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

THE HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

DECLARATION REGARDING CONCURRENCE

I, R. Alexander Saveri, am the ECF user whose identification and password are being used to file this STIPULATION AND [PROPOSED] ORDER GRANTING VOLUNTARY DISMISSAL. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all of the signatories listed above have concurred in this filing.

DATED: November 16, 2020

SAVERI & SAVERI, INC.

/s/ R. Alexander Saveri

R. Alexander Saveri